

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45570 of 2025

Arising Out of PS. Case No.-211 Year-2024 Thana- BARAULI District- Gopalganj

1. Pradeep Pandey @ Pradeep Kumar Pandey S/o Dhruv Pandey @ Dhruv Pandey R/o Village- Bhatwalia, P.O.- Siswania, P.S.- Mirganj, District- Gopalganj, Bihar- 841436
2. Pradeep Kumar Patel S/o Viswanath Pratap Patel @ Viswanath Prasad Patel R/o Village- Batardeh, P.O.- Sarfara, P.S.- Barauli, District- Gopalganj, Bihar - 841405

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Adv.
For the Opposite Party/s : Mrs. Rita Verma, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 15-11-2025 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 406, 420, 34, 120(b) of the Indian Penal Code.

3. Learned counsel appearing on behalf of the petitioners submits that the offenses for which the instant FIR has been instituted, carries punishment of seven years and less. The said submission of the learned counsel appearing on behalf of the petitioners is not disputed by the learned APP for the State. The learned counsel for the petitioners next submits that investigation in the case against the petitioners is continuing, but



then petitioners have not been given notice under Section 41A of the Cr.P.C., on which the learned APP for the State submits that from perusal of the case diary at Para-20, it would manifest that the same records that notice under Section 41A of the Cr.P.C. was issued on the accused on their WhatsApp.

4. The learned counsel for the petitioners vehemently rebuts the said submissions of the learned APP for the State and submits that the petitioners did not receive any notice on his WhatsApp number under Section 41A of the Cr.P.C. It is also submitted that the police are required to serve the notice under Section 41A of the Cr.P.C. as mandated in the Cr.P.C., and the Cr.P.C. does not mandate the police to serve notice on an accused on his WhatsApp. It is next submitted that service of notice under Section 41A of the Cr.P.C. on WhatsApp is not considered to be a valid service of notice.

5. The learned counsel for the petitioners asserts and submits that he never received any notice on his WhatsApp number under Section 41A of the Cr.P.C. issued by the police as recorded at para-20 of the case diary. It is also submitted that the law is clear that where the offense for which an FIR has been instituted carries a punishment of seven years or less, the arrest is not automatic. It is next submitted that in the event, if the



police intends to arrest an accused who is implicated in a case relating to offences which carries punishment of seven years or less, in that event, the police have to resort to certain procedures as incorporated in the Cr.P.C. It is submitted that if the police intends to arrest in that event, the police will have to seek permission of the learned Magistrate under Section 41(i)(b) of the Cr.P.C., but if the police do not intend to arrest an accused with respect to offenses carrying punishment of seven years or less, in that event, the police will issue notice under Section 41A of the Cr.P.C., but in the instant case, no such procedure was resorted to.

6. At this stage, the learned APP for the State submits that the petitioners can represent before the Superintendent of Police of the concerned district, bringing to his notice that he has not received any notice under Section 41A of the Cr.P.C.

7. At this stage, the learned counsel appearing on behalf of the petitioners seeks permission to withdraw the anticipatory bail application with liberty to file an application before the concerned Superintendent of Police in terms of Section 41A of the Cr.P.C. within three weeks from today, and the concerned Superintendent of Police and the investigating office of the case shall strictly adhere to the provisions contained in Section 41A



of the Cr.P.C.

8. Permission is accorded.

9. The anticipatory bail application of the petitioners is disposed of with the liberty aforesaid.

(Satyavrat Verma, J)

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